

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4927

IN THE MATTER OF:

Served September 12, 1996

Application of CAPITAL CITY                    )  
LIMOUSINE, INC., to Amend                    )  
Certificate of Authority No. 298            )  
and Consolidate Operations with            )  
CAPITAL CITY TRANSPORTATION, INC.        )

Case No. AP-96-28

By application filed May 8, 1996, Capital City Limousine, Inc. (CCL), a District of Columbia corporation, requests removal of the 15-passenger restriction in Certificate of Authority No. 298. If this application is approved, CCL will consolidate its fleet with the fleet of commonly-controlled Capital City Transportation, Inc. (CCT), and CCT will surrender Certificate of Authority No. 299.

Notice of this application was served on May 14, 1996, in Order No. 4844, and applicant was directed to publish further notice in a newspaper and file an affidavit of publication, certain statements concerning applicant's proposed tariff and a statement describing the effect of the consolidation on competition, the riding public and the interests of affected employees. Applicant complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, applicant's corporate status, carrier affiliations, facilities, proposed tariff, finances and regulatory compliance record.

CCL proposes conducting post-consolidation operations using six sedans, six limousines, three vans and two minibuses. CCL's proposed tariff contains hourly rates of general applicability and hourly rates for airport transfers.

Applicant certifies it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire.

DISCUSSION AND CONCLUSION

Under Article XI, Section 10(b), of the Compact, the Commission may amend a certificate of authority upon application by the holder. A carrier seeking expanded operating authority must show that it is fit and that the proposed transportation is consistent with the public

interest.<sup>1</sup> The Commission may rely on a prior finding of financial fitness unless sufficient evidence is presented that the prior finding is no longer valid.<sup>2</sup> Such applicant, however, still must offer current evidence of operational fitness and compliance fitness.<sup>3</sup>

Applicant was found financially fit to conduct irregular route operations in Order No. 4552.<sup>4</sup> There is no evidence in this record to support a contrary finding. Based on the prior finding of fitness and the record evidence summarized above, and subject to applicant's compliance with the requirements of this order, the Commission finds applicant to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. The Commission further finds that the proposed transportation is consistent with the public interest.

Under Article XII, Section 3(a)(i), of the Compact, the Commission may approve the consolidation of CCT and CCL if the Commission finds said consolidation to be in the public interest. The public interest analysis under Article XII, Section 3, focuses on the acquiring party's fitness, the resulting competitive balance, and the interests of affected employees.<sup>5</sup>

In this case, the three public interest factors favor approval. As a WMATC carrier, applicant is presumptively fit to acquire the assets of another WMATC carrier.<sup>6</sup> There should be no adverse effect on competition. Consolidation should increase applicant's competitive efficiency, offsetting whatever impact the loss of any intra-brand competition might produce. Neither carrier's employees should be affected, and none has protested or commented on this application.

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<sup>1</sup> In re Hubert Rawls Nicholson, t/a Holiday Tours, AP-95-44, Order No. 4700 (Nov. 16, 1995).

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> In re Capital City Limo., Inc., No. AP-95-09, Order No. 4552 (Mar. 31, 1995).

<sup>5</sup> In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996). The "public benefit" inquiry was eliminated by Order No. 4926 as an element of the public interest analysis after this application was filed. We apply current law to pending applications. See In re B&J Transp., Inc., No. AP-91-02, Order No. 3762 (May 23, 1991) (new standard for granting certificate of authority applied to pending application for certificate of convenience and necessity); In re Winter Growth, Inc., No. AP-90-37, Order No. 3674 (Apr. 12, 1991) (same).

<sup>6</sup> In re Regency Servs., Inc., & Carey Limo. D.C., Inc., No. AP-95-39, Order No. 4689 (Nov. 2, 1995).

Accordingly, based on the evidence in this record, the Commission finds the proposed consolidation consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That the application of Capital City Limousine, Inc., to amend Certificate of Authority No. 298, by deleting the 15-passenger restriction, and to consolidate operations with Capital City Transportation, Inc., is hereby conditionally granted, contingent upon applicant's timely compliance with the requirements of this order.

2. That applicant is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, make, model, serial number, vehicle number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; and (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia.

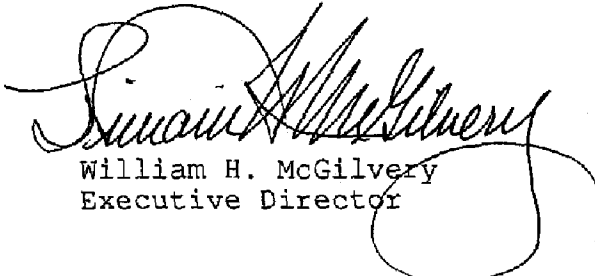
3. That applicant shall identify its vehicle(s) in accordance with Commission Regulation No. 61, for which purpose WMATC No. 298 is hereby reassigned, and present said vehicle(s) for inspection by Commission staff.

4. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 298 shall be reissued to Capital City Limousine, Inc., 30 L Street, S.W., Washington, DC 20024, and Certificate of Authority No. 299 shall stand terminated.

5. That applicant may not transport passengers for hire between points in the Metropolitan District in vehicles seating more than 15 persons, including the driver, unless and until Certificate of Authority No. 298 has been reissued in accordance with the preceding paragraph.

6. That unless applicant complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the approval of amendment and common control herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND MILLER:

  
William H. McGilverey  
Executive Director